

TOWN OF HERNDON

Enriching the Quality of Life and Promoting a Sense of Community



FAQs

THE FEDERAL 287(g) PROGRAM IN THE TOWN OF HERNDON

What is the 287(g) Program?

The Illegal Immigration Reform and Immigration Responsibility Act (IIAIRA) of September 30, 1996, amended the Immigration and Nationality Act by adding section 287(g) that describes a program authorizing the Secretary of the Department of Homeland Security (DHS) to enter into written Memoranda of Agreement (MOA) with state and local law enforcement to authorize qualified personnel to perform certain acts of an Immigration Officer.

What is the program designed to do?

The 287(g) program is designed to enable state and local law enforcement personnel, in the course of their normal duties, to question and detain individuals for potential removal from the United States if these individuals are identified as criminal illegal aliens – individuals who pose a significant threat to national security and public safety.

What is the program *not* designed to do?

The 287(g) program is not designed for rounding up illegal aliens in random street operations. It is not designed to impact issues such as excessive occupancy and day worker activities. In outlining the program, ICE representatives have repeatedly emphasized that it is designed to identify criminal illegal aliens who pose a significant threat to public safety for potential deportation, to include individuals convicted of state or federal felony offenses.

When did the Herndon Police Department enter into the 287(g) program?

In March 2007 the Herndon Town Council approved Resolution 07-G-26, entering into a MOA between the town and DHS and authorizing the Mayor and Chief of Police to sign and deliver the agreement to ICE. Certain officers of the Herndon Police Department were trained in May 2007, and the program was implemented in the town in June 2007.

Has the agreement changed since the program's inception?

On October 16, 2009, DHS on behalf of ICE, announced new standardized 287(g) agreements with its state and local law enforcement partners. On November 24, 2009, the Herndon Town Council ratified a new MOA between the Herndon Police Department and ICE. The new 287(g) agreement replaces the old MOA.

How does the new agreement differ from the original MOA?

ICE proposed the new standardized MOA to all 287(g) state and local partners nationwide in an effort to establish standard, uniform procedures for the 287(g) program. The new agreement prioritizes the identification and removal of dangerous criminal aliens and ensures consistency and stronger federal oversight of state and local immigration law enforcement efforts across the nation. Specifically, the new MOA removed specific offenses such as the Group A and Group B offenses as defined by the Commonwealth of Virginia.

Does the new MOA limit or expand authority under the previous MOA?

The new MOA is designed to enable authorized Herndon police officers, in the course of their normal duties, to question and detain individuals for potential removal from the United States if these individuals are identified as criminal illegal aliens who pose a significant threat to national security and public safety, but in a more standardized manner across the country. The program maintains and in some respects expands current authority by categorizing and prioritizing the arrest and detention of aliens to the following felony or misdemeanor levels:

Level 1 – Aliens who have been convicted of or arrested for major drug offenses and/or violent offenses such as murder, manslaughter, rape, robbery, and kidnapping.

Level 2 – Aliens who have been convicted of or arrested for minor drug offenses and/or mainly property offenses such as burglary, larceny, fraud, and money laundering

Level 3 – Aliens who have been convicted of or arrested for other offenses.

Additionally, the new MOA does not change current policies regarding witnesses and victims of crime and requires participating agencies to receive specialized training at no cost.

How can I track the program's results?

A monthly report, outlining contacts made and detainers issued under 287(g), is disseminated by the police department's public information officer and is posted on the "public safety" pages of the town's Web site, www.herndon-va.gov.